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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/734,053	12/11/2003	James Dennis Stell	NITP:101US	9168

7590 12/30/2005

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EXAMINER

HOOK, JAMES F

ART UNIT	PAPER NUMBER
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3754

DATE MAILED: 12/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/734,053	Applicant(s) STELL ET AL.	
	Examiner James F. Hook	Art Unit 3754	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

It should be noted that the application was filed with two claim 8's and no claims 17 and 18, as per rule 1.26 the claims have been renumbered, where the second 8 is numbered claim 9, and the remaining claims are numbered in order from 10-19. The examiner will be using these claim numbers to apply the applicable rejections below.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 and 13-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Barber (037). The patent to Barber discloses the recited noise reducing device comprising a housing 12 comprising an inlet and an outlet end, the inlet end and outlet end comprising at least one orifice for passing a fluid there through, including gases, the inlet end has an inlet and outlet face where backpressure is maintained upstream from the inlet orifice end, a diffusing pack material 26 disposed within the housing, the pack material maintaining contact with the outlet face of the inlet orifice, the diffusing pack can be formed of monofilament wire knitted to form a mesh, where such can be wound to thereby overlap itself which forms a plurality of folded mesh layers, where at least one stiffener in the form of a wire screen can be provided to hold the mesh together, the mesh and screen are formed of heat and oxidation resistant material such as stainless

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steel, where a plurality of diffusing packs can be provided in the housing thereby providing for a first knitted wire mesh, a second wire screen layer proximate to the first layer, a third layer of knitted mesh, and a forth wire screen layer proximate to the outlet end and contacting such as it is formed around the end wire mesh layer which contacts the outlet end.

Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Barber (950). The patent to Barber discloses the recited noise reducing device comprising a housing 12 comprising an inlet and an outlet end, the inlet end and outlet end comprising at least one orifice for passing a fluid there through, including gases, the inlet end has an inlet and outlet face where backpressure is maintained upstream from the inlet orifice end, a diffusing pack material 26 disposed within the housing, the pack material maintaining contact with the outlet face of the inlet orifice, the diffusing pack can be formed of monofilament wire knitted to form a mesh, where such can be wound to thereby overlap itself which forms a plurality of folded mesh layers, where the mesh can be formed of a heat and oxidation resistant material such as stainless steel.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barber (037). The patent to Barber discloses all of the recited structure with the exception of disclosing the density of the mesh layers, and the diameter of the wire used. It is considered that such are merely choices of mechanical expedients where one skilled in the art would only require routine skill in the art and routine experimentation to arrive at optimum values for the materials to use to achieve the necessary noise reduction, as such is merely a choice of mechanical expedients and would provide a quieter pressurized fluid system.

Claims 4-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barber (950). The patent to Barber discloses all of the recited structure with the exception of disclosing the density of the mesh layers, and the diameter of the wire used. It is considered that such are merely choices of mechanical expedients where one skilled in the art would only require routine skill in the art and routine experimentation to arrive at optimum values for the materials to use to achieve the necessary noise reduction, as such is merely a choice of mechanical expedients and would provide a quieter pressurized fluid system.

Response to Arguments

Applicant's arguments filed October 6, 2005 have been fully considered but they are not persuasive. With respect to Barber '037, the housing is considered a combination of the piece 12 and the ends 23 which are provided with holes therein that are form the inlet and outlet. The wall of the ends 23 has the orifice in it that is the inlet

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and outlet, and the wall that forms the end 23 has an inner and outer faces meeting the claim language. With respect to the argument directed to the backpressure, it is considered inherent that at least some backpressure would be created by the reduction of exhaust and air from the plurality of sources down to the single inlet that is formed in the end plate 23 of the housing in Barber, and therefore this reduction in area for flow would create at least some inherent back pressure, the fact that Barber includes a valve 13 that further regulates backpressure does not preclude that backpressure exists prior to entering the housing, just that the valve further controls backpressure to allow such to be adjustable, but this will not preclude the existence of backpressure prior to the housing due to the reduction in flow area. Therefore the size of the opening in the end plate of the housing is itself capable of creating backpressure inherently thereby meeting the claim language. With respect to claim 13, the same arguments set forth above apply as well to claim 13. With respect to claim 18, the same arguments apply, and the separate sections 26 of the fiber material shown in the figure of Barber are what form the four layers recited in the claim, where the broadest interpretation of the claim language is met by this structure in Barber. With respect to the Barber '950 reference the same arguments set forth above apply to this reference as well. With respect to the two rejections under 35 USC 103 of the Barber references, there are no new arguments set forth as to why such rejections are not viable based upon choice of mechanical expedients but only is based upon the previous arguments which are answered above.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

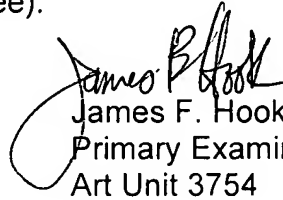
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James F. Hook whose telephone number is (571) 272-4903. The examiner can normally be reached on Monday to Wednesday, work at home Thursdays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Mar can be reached on (571) 272-4906. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


James F. Hook
Primary Examiner
Art Unit 3754

JFH